



Seeking Justice, Repairing Reputations: Defamation Cases in the Ely Act Book, 1374-1382

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SEEKING JUSTICE, REPAIRING REPUTATIONS:
DEFAMATION CASES IN THE ELY ACT BOOK, 1374-1382

by
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Introduction:

During the late fourteenth century, two sets of laws governed England. The king administered the common law, while the Church administered canon law. The common law system included the local secular courts held by boroughs (towns with royal charters¹) and feudal lords as well as the central royal courts established by the Magna Carta: King's Bench and Common Pleas.² Canon lawyers practiced in the courts of archdeacons and bishops, and even that of the archbishop of Canterbury.³ While common law courts could condemn criminals to death, canon law courts assigned them penance in hope of saving their eternal souls.⁴

Two documents defined the jurisdiction of the ecclesiastical courts and the central royal courts at this time. The first was a royal writ from 1285, *Circumspecte agatis*, and the second was the *Articuli cleri* of 1315. Taken together, they gave ecclesiastical courts control over marriage, wills, and sins like breach of faith, adultery, and fornication. They reserved for the central royal courts jurisdiction over real property, contracts, and crimes like murder and theft. As part of this settlement, the Church could only assign penance as a remedy. It was not empowered to assign payment of damages.⁵ However, an "Addition" to *Circumspecte agatis* allowed defendants to pay money instead of undergoing corporal penance, and this provision for payment might have acted as a civil

1. C. Warren Hollister, et al., *The Making of England to 1399* (Boston: Houghton Mifflin Company, 2001), 218-219.

2. J.H. Baker, *An Introduction to English Legal History* (Oxford: Oxford University Press, 2007), 6-7, 26-27, 38-39.

3. Baker, 127.

4. Baker, 129.

5. Baker, 129.

remedy for the plaintiffs.⁶ Local secular courts were also active during this time, but manor and borough courts were restrained by the common law.⁷

The records of these courts are often valuable to historians. The procedure of a court, the decisions of its judge, and the format of its documents illustrate a world otherwise lost. Such records teach neither the transcendent truths of literature nor the intimate lessons of narrative documents like letters or diaries. Instead, they fall in the middle, giving a small amount of information about many people. They show a world where marriage could be contracted without witness or officiant.⁸ They show a world where breach of faith was an offense against God but breach of contract was actionable under the secular common law as well.⁹ They show a world of gossips, hotheads, and men and women of all ages defamed in front of their communities.¹⁰

Late fourteenth-century England was a vibrant world. It was the world of reforming theologian John Wycliffe and of peasant leader John Ball. It was the world of Richard II and also that of the poets Geoffrey Chaucer and William Langland.¹¹ All of these men left behind written records – sometimes stirring, like Ball's famous couplet,¹² sometimes shocking, like Wycliffe's treatises on the sacraments, and sometimes satirical, like Chaucer's *Canterbury Tales*. Chaucer's poetry achieves universality by lambasting the stock characters of the age. Wycliffe's treatises and Ball's sermons show the

6. R. H. Helmholz, *Select Cases on Defamation to 1600* (London: Selden Society, 1985), xl.

7. Baker, 231, 26.

8. Barbara Hanawalt, *The Ties That Bind: Peasant Families in Medieval England* (Oxford: Oxford University Press, 1986), 202-203.

9. Baker, 331.

10. Marcia Stentz, draft of an edition of the Ely Act Book for the Ames Foundation. Cited here with the kind permission of the Ames Foundation. A few cases give us this level of detail, including 362. *Ranlyn/Ward*, 231. *West*, and 330. *Gritford*. Where possible, this thesis cites cases from the Stentz edition by the numbers it assigns to them, rather than by page number, because the page numbers are still changing.

11. Hollister, 340-349.

12. Hollister, 349. "When Adam delved and Eve span,/ Who was then the gentleman?"

influence of individual men on larger historical events. However, these sorts of sources are necessarily limited, because they usually record the perspectives of the literate upper classes. Legal records can be better situated to tell more of the tale, because they record the stories not only of the privileged but also of the lower classes. In many cases, legal records are the only traces of the people whose lives they document.

One such legal record is the Ely Act Book, the record of the consistory court of Ely from 1374 to 1382. Consistory courts were ecclesiastical courts where a judicial deputy of the bishop presided. The Ely Act Book contains no fewer than 25 kinds of cases. The most common type of case concerns marriage law, with 24 percent of the nearly 400 cases listed dealing with marriage or illegal solemnization of marriage. Twenty percent of the cases are defamation cases, where the plaintiff claims the defendant attributed a crime to him/her. Seven percent deal with conflicts over wills and another seven percent are concerned with breach of faith, which usually means failing to pay what one promised. Six percent record tithes or oblations, property or money given to the Church. Smaller numbers of cases deal with crimes such as contempt, adultery, and violence, as well as a long list of other offenses, some of which appear only once during the Act Book's eight-year span.¹³

Just from these statistics, we can see something of the character of the court. Although it was an ecclesiastical court, most of the business the Act Book records is not about Church business, like tithing or the behavior of priests. The Act Book reflects the efforts of clerics in Cambridgeshire to enforce canon law for ordinary men and women.

13. Stentz. I have used cases here as they are edited and grouped in the edition by Stentz. The percentages are my own.

Most interestingly, it suggests that this law was not forced upon the residents of the diocese. In many cases, the residents themselves were the ones who brought the libels, or complaints. They were not compelled to enter this judicial system. They chose it.

The marriage cases from the Ely Act Book have been widely studied.¹⁴ This thesis will focus instead on the next-largest group of cases, those dealing with defamation. As mentioned above, the defamation cases compose about one-fifth of the register (81 cases). 70 percent of them (57 cases) have at least one woman named as a plaintiff or a defendant. Defamation is the only category of offense besides marriage in which women are so well represented. In marriage cases, women are involved by definition. In the defamation cases, women appear even though they do not need to be involved. Additionally, defamation cases include both clergy and laypeople.¹⁵ In these ways, the defamation cases actually represent the diversity of the society better than the Act Book does as a whole.

The Act Book preserves a meager image of the court, but nonetheless it shows a court that positively influenced each level of the society it served. This thesis will use the defamation cases as a lens to examine the influence of the court. After a brief discussion of the Act Book itself – its survival, its construction, and its layout, which constitute the remainder of this introduction, the first chapter will explore the Ely Consistory Court as an agent of the larger canon law system. It will show that the court enforced canon law, addressing the legal and pastoral concerns of the Church in England,

14. See Michael Sheehan, "Formation and Stability of Marriage in Fourteenth-Century England: Evidence of an Ely Register," *Mediaeval Studies*, 33 (1971) 228-63, R. H. Helmholz, *Marriage Litigation in Medieval England*, Cambridge Studies in English Legal History (Cambridge: Cambridge University Press, 1974), and Charles Donahue, Jr., *Law, Marriage, and Society in the Later Middle Ages: Arguments About Marriage in Five Courts* (Cambridge: Cambridge University Press, 2007).

15. Stentz. I developed the figures in this paragraph based on the case divisions in the edition by Stentz.

and that the bishop of Ely at the time – Thomas Arundel – was committed to those goals. The second chapter will examine the court from the perspective of the people who worked and sought justice in it. It will first show that the court's emphasis on order and learning demanded the employment of bureaucrats like the man who wrote the Act Book, Robert Foxton. The court provided both a market for their skills and an opportunity to advance their careers. Then it will show that the court also benefited the litigants. It offered both sides an opportunity for legal representation. For the plaintiffs, it provided a judicial solution to disputes, but at the same time it protected defendants with a strong standard of proof, and awarded court costs to the falsely accused.

The court was not a progressive institution in the modern sense of expanding the rights of individuals. It was conservative; it protected the *status quo* and it served the interests of the churchmen who created it. It preserved what we now view as inequities based on class, birth, and gender. However, the Act Book will show us a system that worked well enough that people from each level of society bought into it.

The survival of the Ely Act Book

The Ely Act Book's trip to the safety of Cambridge University Library was a perilous one. It is among the earliest of English act books,¹⁶ and the time and the system that it preserves seem foreign. Indeed, even the book is foreign, written in abbreviated Latin with a spidery medieval cursive.¹⁷ It records a minimum of information, and that information is encoded to be understood by fourteenth-century clerics, not twenty-first-

16. Charles Donahue, Jr., *Law, Marriage, and Society in the Later Middle Ages: Arguments about Marriage in Five Courts* (Cambridge: Cambridge University Press, 2007), 218.

17. See images 4 and 5 in appendix.

century scholars. However, the Act Book is a rewarding source. Buried in the Latin of this ancient book lies the story of court that seems to have worked positively for everyone involved. Although the Ely Act Book is exceptional today, the story of its survival suggests that books like it were common in the late fourteenth century.

In 1215, the Fourth Lateran Council mandated that church courts keep records. One of the ways courts complied with this law was the act book, which recorded the court's *acta* (literally “things done”). “Cause papers” are another form of record that survives. They recorded the evidence presented to the court, including allegations made by the plaintiff, depositions of witnesses, and the court's sentence.¹⁸ By the 1370s, when the Ely Act Book begins, there must have been hundreds of such court records in England. Nevertheless, it is among the earliest to survive to the present. The story of that survival, at least as far as we can piece it together, is a serendipitous one.

It was given to the Cambridge University Library in 1962.¹⁹ Before that, it was held for a time by the diocese of Ely. An 1891 survey by the Royal Commission on Historical Manuscripts locates the Act Book in St. Mary's Church,²⁰ Cambridge, together with other episcopal documents. At that time, such records were kept in cupboards in a corner of the church and were well-preserved.²¹ The Ely Act Book was the oldest among those documents, and the group seemed to have no particular interconnections. There

18. R. H. Helmholz, *Marriage Litigation in Medieval England* (Cambridge: Cambridge University Press, 1974), 7-21.

19. Cambridge University Library, “Ely Diocesan Records,” accessed 24 Jan 2010, <<http://www.lib.cam.ac.uk/MSS/Edr.html>>

20. The study does not specify whether this was St. Mary's the Greater or St. Mary's the Less. Five centuries earlier, St. Mary's the Less was the site for many of the meetings of the court described in the book.

21. Royal Commission on Historical Manuscripts, *The manuscripts of the Duke of Beauford, K.G., the earl of Donoughmore, and others* (London: Eyre and Spottiswode, 1891), 378.

were some later act books in the group, mostly from the sixteenth century, but they were not consecutive with each other.²² These gaps were likely a product of the records' journey, and they suggest that similar records (almost certainly the intervening sixteenth-century act books, but possibly act books immediately following ours) were lost.

The Act Book probably arrived in those cupboards shortly after a man named Samuel Pegge (or Peck) the Elder bought it “for St. Mary’s archives”²³ from a Cambridge grocer. Pegge bought the Act Book by weight along with “40 or 50”²⁴ other volumes and recorded that the grocer “had them for waste paper.”²⁵ We learn of the Act Book's near destruction because Pegge wrote a note to that effect on Ely Diocesan Records D/2/2, one of the books that traveled with the Ely Act Book. We also know from that note that Pegge intended to read the book himself, and an undated note attached to it states “Nothing worth searching for in this book is the opinion of S. Peck.”²⁶ Presumably, this note is the result of the search Pegge planned in the note describing the books’ acquisition.

We can speculate about what the grocer might otherwise have done with these books. The parchment of the Act Book is mostly covered with writing. It could have been reused for writing if the grocer scraped it down, removing the top layer that had ink on it. Since the parchment was of good quality, it was probably thick enough to scrape. However, such an effort would have been time-consuming, and the resulting product

22. Royal Commission on Historical Manuscripts, 379.

23. Royal Commission on Historical Manuscripts, 378.

24. A. Gibbons, *Ely Episcopal Records: A Calendar and Concise View of the Episcopal Records preserved in the Muniment Room of the Palace at Ely* (Lincoln: James Williamson, 1891), 79.

25. Royal Commission on Historical Manuscripts, 378. See image 2 in appendix.

26. Dorothy Owen, *Ely Records: A Handlist of the Records of the Bishop and Archdeacon of Ely* (Cambridge: W. Heffer & Sons, 1971), 20-21. See image 1 in appendix.

would still have looked old. It seems just as likely that the grocer would have reused the Act Book in a way that did not require writing on it, perhaps to wrap up grocery purchases. In either case, reuse would have meant the destruction of the record that the Act Book preserves.

We can attempt to reconstruct how the Act Book came into the grocer's possession. A. Gibbons, who conducted a study of the Ely Episcopal Records in 1891, suggests that the grocer got the group of books from a Mr. Day, the Town Clerk of Cambridge. Day, in turn, was executor to a late Mr. Higgins, who had shot himself two years before. Higgins had been deputy registrar to Charles Green of Hemingford,²⁷ a village in Cambridgeshire.²⁸ Higgins's position as Green's deputy and his possession of the Act Book suggest that Green served as the bishop's registrar (the position held 400 years earlier by Robert Foxton). If Green was the bishop's registrar, then it would make sense for his deputy to have the records of the Registry. That sequence of events would mean that the Act Book spent only a couple of years in private hands: the years between Higgins's death and Pegge's purchase. There is a slight possibility that Green was a registrar of another kind. That would mean that the book came into private ownership earlier, possibly in the chaos of the Reformation or the Civil War.

One earlier clue may shed some light on the Act Book's provenance. Written separately,²⁹ but on the same paper as Pegge's second note is a note dated 24 February 1740. It reads, "Mr. Woodward perused this Book, on acct of the Bishop of London

27. Gibbons, 79.

28. Cambridgeshire Federations of Women's Institutes, *The Cambridgeshire Village Book* (Newbury: Countryside Books, 1999), 115-117.

29. Owen, *Ely Records*, 20. Owen suggests that the two hands are separate. This makes sense because the date on the note precedes Peck's purchase of the books by several decades.

&c.”³⁰ Mr. Woodward’s identity is lost, but the fact that he seemingly read the book on behalf of the bishop of London suggests that in 1740 the book was held by someone who knew what it was and who was friendly enough with the Church of England to let Woodward read it. It seems even more likely, then, that Green was the registrar of the bishop and the books remained in the Church’s possession throughout that time.

Going further back into the book’s history, we must notice two phrases written on the book in what Dorothy Owen calls a sixteenth-century hand. The first of these is written across the top of the first page of the book: “*Registrum primum causarum consistorii episcopi Eliensis de tempore domini T. de Arundel.*” (“The first register of cases of the consistory of the bishop of Ely from the time of Lord T[homas] de Arundel.”)³¹ This sixteenth-century entry suggests that at the time that phrase was penned, there were later act books as well. Whether that simply referred to the extant sixteenth-century volumes or referred to now-lost earlier volumes which may have been consecutive with our act book, we cannot say.

Owen seems less certain about the second of the circa sixteenth-century phrases. She writes that “perhaps” it is in the hand of the early sixteenth century.³² It is not clear whether it could be the same hand as the phrase discussed in the previous paragraph. It is written on the back of the book, and it reads, “*De tempore Domini Thome Arundel Episcopi Eliensis.*” (“From the time of Lord Thomas Arundel, bishop of Ely.”)³³

Regardless of whether the two hands are the same, the writing suggests that the sixteenth

30. Gibbons, 80. See image 1 in appendix.

31. Owen, *Ely Records*, 20. See image 3 in appendix. All Latin translations in this thesis are my own unless otherwise specified.

32. Owen, *Ely Records*, 20.

33. Owen, *Ely Records*, 20. There is no image of this available.

century saw some attempts to organize the books of the Ely Registry. These are the earliest non-contemporaneous marks on the Ely Act Book.

At the end of the book, written in the hand of the book itself, it says, “*Quere proximum consistorium in libro secundo registri causarum.*” (“Look for the next consistory in the second [or following] book of the register of cases.”)³⁴ This earlier note suggests that at the time the Ely Act Book was finished, the registrar intended to continue the series. Even the intent to continue the series is significant because if so, it would show that the Act Book was not exceptional, it was normal, produced as a volume of an ongoing series. If that inference is correct, then the cases in the Act Book are all the more important, because we can suppose they represent other similar cases.

The construction and layout of the Ely Act Book

Questions of production and intent bring us back to the time of the Act Book's construction and use. The book is composed of twenty gatherings of eight leaves each.³⁵ A gathering is a stack of sheets of parchment that has been sewn down the middle and folded in half along the line of stitching. Thus, each gathering makes a small pamphlet. To make a medieval manuscript (or even a well-made modern book), many gatherings are made and then stitched together to form the pages of a book. In the case of the Ely Act Book, the book was then bound with another sheet of parchment, probably a sturdier one, this one lined with linen. This parchment cover had two shields painted on it, and

34. Dorothy Owen, “The Records of the Bishop’s Official at Ely: Specialization in the English Episcopal Chancery of the Later Middle Ages,” in *The Study of Medieval Records: Essays in Honour of Kathleen Major*, ed. D. A. Bullough and R. L. Storey (Oxford: Clarendon Press, 1971), 199.

35. Owen, “The Records of the Bishop’s Official at Ely,” 200.

they retain some of their color.³⁶ Parchment was made from thin sheets of tanned animal skin. It was expensive, and it was particularly costly to obtain large pieces. The Ely Act Book's parchment is large and of good quality, which means that considerable expense went into its production.³⁷

Owen writes that no more than three hands appear in the Ely Act Book.³⁸ Most of the book was written by the bishop's registrar, Robert Foxton. Foxton signed his name in the lower right corner of each recto, the top side of the leaf. The pages are all in the same format, with the year and the name of the bishop's official written at the top of the page and the titles of cases written in the margin at appropriate intervals. The book is paginated in Roman numerals. The script of the book resembles Anglicana (or Cursiva Antiquior), a script particular to England at this time. The most distinctive element of the book is the scribe's affinity for abbreviation. The abbreviations are generally limited to contraction, where letters from the middle of the word are omitted, and suspension, where letters from the end of the word are omitted. Occasionally, the scribe writes in a superscript in order to abbreviate a word, and he uses a few symbolic abbreviations for very common words.³⁹ Frequent use of abbreviation is common in government records and suggests that the book was written as the events it records unfolded.⁴⁰

The book records all of the court business in chronological order, so entries that pertain to a given case can be spread among many pages. The cases are titled with the

36. Owen, "The Records of the Bishop's Official at Ely," 200. For an image of the linen lining, see image 1 in appendix. Unfortunately, the microfilm does not capture the image on the front cover.

37. Ely Diocesan Records D/2/1 in *The Church court records of Ely*. Microfilm, (Brighton: Harvester Press Microfilm Publications), 1985-1986.

38. Owen, "The Records of the Bishop's Official at Ely," 200.

39. Ely Diocesan Records D/2/1.

40. See images 4 and 5 in the appendix for a typical page and typical abbreviation.

plaintiff's name in the margin, and this thesis will generally refer to cases by that convention, adding indexing numbers when there is more than one case to go with a name (e.g. *Smyth (1)* and *Smyth (2)*). Foxton divides the entries into groups representing sessions of the court. At the beginning of the entries for a session (usually two days long), Foxton gives a header in a slightly larger script.⁴¹ It says who is presiding (usually the official, but sometimes the official's commissary, substituting for the official) and where (always in a church, usually in Cambridge rather than Ely).⁴²

Foxton also gives the date of the current session and the next one, in terms of the ecclesiastical calendar. For instance, on 13 April 1374, he wrote "*acta...die iovis proximo post dominicam qua cantatur officium 'Quasi modo geniti' anno domini millesimo trecentesimo septuagesimo quarto et agenda ibidem die iovis proximo post festum Sancti Johannis ante portam latinam proximo sequens.*" ("the things done on the Thursday next after the Sunday on which the service 'As newborns' is sung in the year of Our Lord 1374, and to be done in the same place on the Thursday next after the feast of St. John before the Latin Gate next following.")⁴³ Transcriptions of the Act Book generally replace this style of dating with modern numerical dates, and indeed these numerical dates are much more meaningful to the modern scholar. However, it is important to remember that for Foxton and for the officials – even for the litigants – the ecclesiastical dates would have been the meaningful ones.

With a source that is as terse as the Ely Act Book, it is important to consider not only the meaning of the document, but the form which conveys that meaning. Knowing

41. Ely Diocesan Records D/2/1.

42. See image 4 in the appendix.

43. Stentz, 24.

that the book was written on large pieces of parchment tells us that its creators thought it was worth expense. Knowing that the book uses substantial abbreviation tells us that it could have been written as the action unfolded. Knowing that it was composed with such attention to detail tells us that we can rely on its accuracy.

The layout of a typical defamation case

Each defamation case first appears in the Ely Act Book as a citation in the form, “x was cited for June 27 at the instance of y in a case of defamation,” or “x was cited in the presence of the official (or his commissary) for June 27 *ex officio* at the promotion of y.”⁴⁴ The first of these formulae represents an instance case, the second an office case. *Ex officio* or “office” cases were those in which the court brought the suit, in contrast with other cases where a plaintiff brought the suit (“instance” cases). These types of cases roughly correspond to the modern categories of “criminal” and “civil,” respectively.⁴⁵ X is the defendant and y is the plaintiff or, in an office case, the promotor. These citations usually appear on the first day of a meeting of the consistory court, but the parties actually appear on the second or third day of the session, the day they were cited for, because the official dealt with new cases later in the session after hearing cases that continued from the previous meeting of the court. The parish priests were responsible for notifying people that they were cited.⁴⁶ In either type of case (office or instance) the parties involved could hire proctors, learned men who represented litigants in the consistory court.⁴⁷

44. Stentz. For an example of an instance case, see 316. *Lolworth*; for office, see 32. *Smyth (1)*.

45. Donahue, 226.

46. Stentz, 33. *Shepherd/Wrighte*, 258.

47. Stentz.

On the day appointed by the citation, Foxton recorded whether the parties showed up and whether they were represented by proctors. The first step in the trial is for the plaintiff or the promotor (generally acting by his/her proctor, but occasionally acting in person) to bring an oral libel against the defendant(s). This step required the plaintiff to allege the crime orally, probably saying something like “I accuse John Smith of defamation,” “John Smith defamed me,” or “John Smith committed defamation.” The Act Book never records the contents of such statements, but it does record the dates they are given. On very rare occasions, the Act Book records details from these statements, such as the actual nature of the crime John Smith wrongfully attributed to someone.

Many of the defamation cases end (either due to settlement or abandonment) after the oral libel is delivered. At this point, the procedure allows the defendant to ask for a written version of the libel. Such a request often delays the trial because the plaintiff has to find someone to write the libel. Once the written libel is produced, the plaintiff must prove it, usually by the production of witnesses. In some of the cases, like the first half of *Gritford*, which will be discussed below, the defendant counteracts an *ex officio* suit by purging himself/herself with compurgators, people who know the defendant and swear he/she is telling the truth.⁴⁸

Very few of the cases reach this point, but once the plaintiff has produced all of the witnesses that he/she intends to, the official prepares to pass his sentence. Sometimes he consults with the advocates, the group of court lawyers from which officials were selected, in order to make his decision. He then delivers his sentence. If the plaintiff fails to prove his/her case, the defendant is allowed to go free and the

48. Stentz, 330. *Gritford*.

plaintiff may be held responsible for the defendant's court costs. If the plaintiff does make his/her case, the defendant will often have to do penance. It is contrary to the Church's agreement with the king in *Circumspecte agatis* and *Articuli cleri* for the official to award monetary damages to the plaintiff.⁴⁹ However, the penance imposed on a guilty defendant often helps to clear the name of the person accused of defamation, usually with a public declaration by the offender in front of the entire parish at the following Sunday's church service. A few cases continue beyond this point, usually with claims that one party did not fulfill the court's mandate, either by failing to pay the other party's costs or by failing to do penance.

49. Baker, 129.

Chapter 1: The court working for the system

The Ely Act Book begins not with the consistory court proceedings that fill most of its pages but with a record from the beginning of the bishop's tenure. The Act Book tells us that on 21 March 1374, the prior and chapter of Ely gathered to swear obedience to a new bishop, Thomas Arundel.⁵⁰ We know from other sources that Arundel was his father's youngest son and that he was just 20 years old. By canon law, he ought to have been ten years older to become bishop, but the Pope had granted him a dispensation at the behest of Thomas's powerful father, the tenth earl of Arundel. The diocese of Ely was among the wealthiest in England, and acquiring such an important bishopric at such a young age doubtless contributed to Thomas Arundel's later career as archbishop of York and then archbishop of Canterbury. He probably got the bishopric so early because the Earl of Arundel used his influence to see his son into a career before his death.⁵¹

The Act Book tells us that a man named Nicholas Roos presided at that March meeting. One of Arundel's first acts as bishop was to appoint Roos as his official, a deputy invested with his judicial power and the authority to preside at meetings of the consistory court.⁵² The bishop could hold his own court of audience as he wished, but having an official freed the bishop from judicial responsibilities. Decisions from the official in the consistory court could not be appealed to the bishop. Ely's bishops had appointed such a representative to deal with their judicial responsibilities since 1197.⁵³

50. Stentz, 3.

51. Margaret Aston, *Thomas Arundel: a study of church life in the reign of Richard II*. (Oxford: Clarendon Press, 1967), 4-9.

52. Stentz, 3-4.

53. James A. Brundage, "The Bar of the Ely Consistory Court in the Fourteenth Century: Advocates, Proctors, and Others," *Journal of Ecclesiastical History*, Oct 1992, 542.

A less illustrious man was also present on that day, 21 March 1374. His name was Robert Foxton, and he was the registrar of the Ely Consistory Court during the time of the Act Book.⁵⁴ He was probably a young man too, because he lived at least thirty more years and his wife was still alive seventy years later. By 1383, the couple lived together in Holy Trinity parish, Cambridge, next door to a convent. We know from the Ely Sacrist Rolls that Foxton sometimes worked as a legal representative for individuals or for religious foundations like the Ely Priory,⁵⁵ but his role as the court's registrar is the most important to this story. It was in that capacity that Foxton wrote the Act Book.

On that day in March, he made the first entry in the Ely Act Book, and he continued the book until early 1382, recording about 400 separate cases from the consistory court.⁵⁶ The officials serving under Bishop Arundel (Roos, mentioned above, 1374-1375, and his successors: Richard Scrope, 1375-1378, and John Newton, from 1379 on⁵⁷) heard trials on every aspect of canon law, exercising their power not only over fellow clerics, but over laymen who contracted marriage improperly, broke faith, defamed, and otherwise contradicted the law of the Church. Arundel and his officials made the decisions that Foxton recorded. Their decisions implemented the law on behalf of their superiors, and as clergy, they answered not only to the archbishop of Canterbury and the pope, but to God.

Since the Act Book records the happenings in an ecclesiastical court, the highest level of its society comprises not the King of England and his nobles but rather the

54. Brundage, 555.

55. Aston, 25-26.

56. Stentz.

57. Aston, 54-55. Newton's career as official ended at some point, and he advanced to a position at York. However, the Act Book ended first, so it is not possible to say with certainty when he stopped hearing cases.

archbishop of Canterbury and his bishops. To say that the court carried out the wishes of the highest members of this society does not simply mean that the officials did what Arundel would have done (although they seem to have done so). It means that the court attended to the pastoral and legal concerns of the English church, which were formulated by people from the highest level of church hierarchy. The views of the English church on defamation are codified in a canon from the Constitution of the Council of Oxford in 1222.

The defamation cases of the Act Book show that the court was enforcing that canon 150 years after the Council of Oxford. Cases recorded in the Act Book refer to it by name, use similar language, and suggest the same punishment. The Act Book shows that Arundel too was committed to enforcing canon law on defamation, because it includes a case over which he presided, *Gritford*. In order to explain how this enforcement of canon law promoted the legal and pastoral goals of the English church, this chapter will first discuss the canon from the Constitution of the Council of Oxford. Then it will explore three cases: first *West* and *Bakere*, which demonstrate the court's application of the law, and then *Gritford*, the defamation case at which Arundel himself presided.

The Constitution of the Council of Oxford

In 1222, the archbishop of Canterbury, Stephen Langton, called for a provincial council to promulgate the laws set forth by the Fourth Lateran Council and to write supplementary statutes. The Constitution of the Council of Oxford, as those

supplementary rules came to be known, was specific to southern England, or more properly, to the ecclesiastical province of Canterbury, the dioceses overseen by the archbishop of Canterbury. It was named *Auctoritate dei patris* after its opening words (called an incipit).⁵⁸

Among the supplementary laws invoked by the council was one on defamation. At that time, people who had been defamed had no remedy in England's central royal courts. The first such common law remedy would appear in the early sixteenth century,⁵⁹ but in 1222 there was only an old defamation remedy in the local courts,⁶⁰ one which must have seemed inadequate to the bishops. The section of *Auctoritate dei patris* dealing with defamation reads, “*Excommunicamus omnes illos qui gratia odii, lucri, vel favoris, vel alia quacunque de causa malitiose crimen imponunt alicui, cum infamatus non sit apud bonos et graves, ut sic saltem ei purgatio indicatur vel alio modo gravetur.*” (We excommunicate all those who, for the sake of hatred, profit, or favour, or for whatever other cause, maliciously impute a crime to any person who is not of ill fame among good and substantial persons, by reason of which purgation at least is awarded to him or he is harmed in some other manner.)⁶¹

Richard Helmholz authored a thorough study of these words and the cases based on them up to the year 1600.⁶² He barely touches on the Ely cases in that volume, but he mentions some differences between the canon law and modern conceptions of defamation that will be important here. Helmholz begins by pointing out the things that

58. Helmholz, *Select Cases*, xiv.

59. Baker, 438.

60. Helmholz, *Select Cases*, xlviii.

61. F. M. Powicke and C. R. Cheney, *Councils and Synods with Other Documents Relating to the English Church II: 1205-1313* (Oxford: Clarendon Press, 1964), 107. Translation by Helmholz, *Select Cases*, xiv.

62. Helmholz, *Select Cases*.

Auctoritate dei patris does not do. Unlike slander claims in the modern Anglo-American system, it only protects reputation when a crime is imputed. In other cases, such as speech that would harm a person's business, *Auctoritate dei patris* offers no recourse. Additionally, the law does not offer a monetary remedy for the defamed party. The statute simply excommunicates the defamer. Since penance would have been required in order to rejoin communion, a guilty judgment would have provided some indirect benefits to the defamed party.⁶³

The three standard texts of the canon law are Gratian's *Decretum*, from 1140; Gregory IX's *Decretals*, from 1234; and Boniface VIII's *Liber Sextus*, from 1298. Of these, only Gratian's work existed at the time that the Council of Oxford wrote *Auctoritate dei patris*, but Gregory IX's *Decretals* would have existed in the form of smaller groups of decrees. However, neither Gratian nor Gregory addressed the question of defamation to the satisfaction of those at the Council. Their canon law texts included references to defamation, but not with the specificity in describing the offense or the harshness in punishment decided upon by the bishops at the Council of Oxford.⁶⁴

The cases in the Ely Act Book refer to *Auctoritate dei patris* both directly and indirectly. Five of the 81 cases mention this canon by name, calling it the "*constitutio Oxonis contra diffamatores*" ("constitution of Oxford against defamers") or similar.⁶⁵ A few other cases refer to the canon indirectly by suggesting the same punishment, excommunication, or by using the same words. For instance, in *Smyth (1)*, Foxton writes that the defendant defamed the plaintiff, John, "*imponendo sibi crimen adulterii*"

63. Helmholz, *Select Cases*, xiv-xv.

64. Helmholz, *Select Cases*, xvi-xviii.

65. Stentz, 501, 678, 857, 879-880, 915. These five cases are 144. *Grigg*, 231. *West*, 330. *Gritford*, 345. *Little*, and 377. *Baker (2)*, respectively.

(“imputing the crime of adultery to him”).⁶⁶ This formula includes an important element of the canon, which defines defamation as “imputing a crime,” and it even states the crime and uses the same words (*imponere crimen*) as the statute. In the case *Chesterton* (2), which is not a defamation case but records part of a defamation case that is not mentioned in the Act Book, Foxton writes that a man defamed “*maliciose*” (maliciously), which is also part of the statute.⁶⁷

West c Cristmesse and Bakere c Norice

In order to make more precise determinations about the court's enforcement of canon law, we will consider two defamation cases from the Act Book, a case between John Cristmesse and Agnes West and another case between Margery Norice and John Bakere and his wife. Their cases refer to the canon by name, suggest the same harsh punishment (excommunication), and use similar language.

On 8 July 1378, John Cristmesse of Croxton, Cambridgeshire was cited *ex officio* at the promotion of Agnes, the wife of Robert West of Croxton, to appear the next day before the official's commissary in St. Michael's Church, Cambridge. In the citation from 8 July, the record also mentions that: “*nequiter et maliciose diffamavit imponendo eidem crimine adulterii sentenciam excommunicatis a constitutione Oxo'n edita latam que incipit Item excommunicamus dampnaliter incurrando*” (“He [John] has wickedly and maliciously defamed her [Agnes], imputing the crime of adultery to her and condemnably incurring the sentence of excommunication from the constitution set forth

66. Stentz, 32. *Smyth* (1).

67. Stentz, 167. *Chesterton* (2).

at Oxford that begins *Item excommunicamus.*”)⁶⁸ This entry uses the language of *Auctoritate dei patris*, but it cites a different incipit, *Item excommunicamus. Item excommunicamus* does not appear in the Constitution of the Council of Oxford itself, but it is likely a restatement of the canon in a collection of Ely diocesan statutes.⁶⁹

On that day, Agnes appeared through her proctor, but John did not appear. He did appear at the next session, on 29 July 1378. Agnes, probably through her proctor, delivered the libel, or charge, against John, alleging that he defamed her by accusing her of adultery. John denied this allegation and the court set a date (8 August 1378, a Sunday⁷⁰) for John to purge himself “*se cum quarta manu honestarum personarum.*” (“with his hand the fourth of the honest persons”)⁷¹ Such a procedure would require John to assemble three men to serve as compurgators, swearing with him that he did not commit defamation. These men would not serve as witnesses; they would simply swear that John was honest.

The same day, the Act Book records that John offered to apologize to Agnes and Robert in front of the congregation at Croxton church on that Sunday. John most likely offered to apologize because he realized he could not find three compurgators. He could not have both purged himself and apologized, because that would have required him to lie in one act or the other, and the court would not have condoned that. The Act Book

68. Stentz, 231. *West*.

69. Powicke and Cheney, 107. One set of diocesan statutes appears in Powicke and Cheney, 515-523. That one does not contain *Item excommunicamus*, but does contain a restatement of *Auctoritate dei patris* with the incipit “*Excommunicamus.*” This could well be the instance of the statute referred to above.

70. *A Handbook of Dates for students of British history*, ed. C.R. Cheney, rev. Michael Jones (Cambridge: Cambridge University Press, 2000), 211.

71. Stentz, 231. *West*.

records the apology John was to deliver in English before the congregation on 8 August.

He promised to say the following:

Dixi de Agnete uxore Roberti West aliqua verba asserens dicto Roberto prout sequitur: 'Utinam sic vilipenderes illum qui fuit diffamatum cum uxore tua.' Et quia illa verba sonant in denigracionem status ipsius Agnetis et numquam scivi nec scio de ea nisi bonum et honestum et talia verba dixi calore iracundie et per dictum Robertum aliququaliter provocata et alio modo non dixissem. Peto a vobis Roberto et Agnete ut dicta verba mihi remittatis.

I said some words to Robert West about his wife Agnes alleging to Robert what follows: 'You ought to despise that man who was defamed with your wife.' And these words sound denigrating of Agnes's status and I never knew nor do I know anything of her that is not good and honest and I said those words in the heat of anger and otherwise provoked by Robert. I would not have said that at any other time. I pray to you, Robert and Agnes, that you may forgive me for the words I said.⁷²

The *West* case runs into a bit of trouble later on. John Wiltesshire, the cleric assigned to see that John completed his apology, reported that John did not make the promised speech. The Act Book records that since he did not make the speech he would have to appear on 20 September to be assigned penance "*quia defecit in purgacione sua*" ("because he failed in his purgation").⁷³ It follows that the promise to speak in church was not part of a penance but rather a chance for Cristmesse to apologize instead of doing penance. The case does not appear on 20 September. Instead, on 1 October, Wiltesshire reports that Cristmesse fulfilled his promise.⁷⁴ Although it took a little longer than planned, this case came to a good end for both litigants. We will discuss the court's benefits for litigants more in the second chapter.

72. Stentz, 231. *West*.

73. Stentz, 231. *West*.

74. Stentz, 231. *West*.

The defamation case between John Bakere and his wife and Margery Norice is similar to *West*, but it does not reach a conclusion. It is an instance case, with the Bakeres bringing the suit. Margery was cited on 30 October 1381. Both parties appeared in person, and the Bakeres delivered an oral libel saying

quod dicta pars rea vocavit dictum Johannem furem et uxorem suam meretricem falso, nequiter et maliciose animo diffamandi, quo pretextu status ipsorum multipliciter leditur et denigratur, quare petunt dictam Margeriam in sentenciam maioris excommunicacionis in constitucione concilii provincialis Oxon' contra diffamacionem edita latam dampnaliter incidisse pronunciari et declarari.

that the defendant falsely called John a thief and his wife a prostitute, with an intent to defame them wickedly and maliciously, by which their status was wounded and blackened in many different ways, therefore they ask that Margery be declared and pronounced condemnably cut off in the broad sentence of major excommunication specified in the constitution of the provincial council of Oxford set forth against defamation.⁷⁵

At that point, Margery admitted that she had said those things, but she claimed that she had been provoked and that they were true. The case appears in the Act Book twice more in the next month, but then it disappears without explanation, probably because the Act Book is nearing its end. It records only four more sessions after *Bakere's* last appearance, so it's possible that these parties returned the following spring and continued their case without making it into this Act Book.

Let us consider the ways these cases show the Ely Consistory Court enforcing canon law. The canon is referred to by name in the oral libel in both cases. In *West*, it is called “*constitutio Oxo'n edita latam que incipit Item excommunicamus*” (“the constitution set forth at Oxford that begins *Item excommunicamus*”). In *Bakere*, it is the “*constitutio concilii provincialis Oxon' contra diffamacionem edita*” (“the constitution

75. Stentz, 377. *Baker* (2).

of the provincial council of Oxford set forth against defamation”). The oral libel would likely have been composed by a proctor or an advocate, legally trained men working in the court, and the official would have heard the canon mentioned in the oral libel. The court was clearly considering the canon in each of these cases.

Both *Bakere* and *West* recommend the punishment set out by *Auctoritate dei patris*, suggesting that the parties knew something of the contents of the law. They suggest that the defendant suffer major excommunication. Such a punishment would be serious and unusual. As mentioned above, other provinces of the church did not punish defamation with major excommunication. Reference to major excommunication shows that the plaintiffs/promoters and the court were considering the Oxford canon.

Additionally, Foxton uses words from the canon in the Act Book. Inclusion of canon law formulae suggests that either the words were actually used in the court, or that Foxton had the canon in mind as he was writing. In the citation for *West*, Foxton writes the word *imponere*, – “to impute” – that appears in *Auctoritate dei patris*. At the next session, the oral libel delivered by Agnes's side identifies adultery as the imputed crime, which shows that the parties involved knew defamation required a crime to be attributed to the defamed person. In *Bakere*, the libel alleges that the defamation was done *falso* and *maliciose*, two important elements of the canon.

The cases from the Act Book show that the Ely Consistory Court was enforcing the English canon law on defamation, *Auctoritate dei patris*. These cases refer to the law by its title, they offer the same punishments it does, and they use similar language to describe the supposed acts of defamation. Such consistent usage demonstrates that the

officials and the plaintiffs were considering the law as they pursued and judged the cases.

Office c Gritford and Gritford c Henry

While *West* and *Bakere* show the consistory court enforcing canon law, another pair of cases from the Act Book shows the direct involvement of Bishop Arundel. They were actually tried before the bishop in what is called his “audience court.” The entry does not tell how Foxton got this information into the Act Book. Most likely he himself was present at the trials, which took place in Doddington chapel. Since Foxton casually records the case amongst the cases from the consistory court, the distinction modern historians make between the two courts must have seemed smaller to him.

The Act Book tells us that on 10 June 1380, Alice, the wife of Thomas Gritford of Doddington, Cambridgeshire was cited in the presence of the bishop of Ely for the crime of adultery with a priest. The bishop was probably involved because he was their temporal lord; Doddington was one of his manors.⁷⁶ On that day, Alice appeared personally in the chapel of Doddington manor, where she denied the charge of adultery and “purged” herself with twelve women. These women were likely her fellow villagers, women who knew her character and were willing to swear anything she swore. This method of proof testifies not only to Alice’s likely innocence, but also to the closeness of life in the parish. It is the same technique offered to John in *West* above, but Alice had three times as many compurgators, perhaps because adultery is a more serious offense than defamation. In 1380, 10 June was a Sunday, so Alice likely purged herself

76. Aston, 40.

either before or after the weekly service, when the twelve women compurgators would have been conveniently assembled.⁷⁷

On the same day, John Henry of Doddington was cited in the presence of the bishop at the instance of Alice wife of Thomas Gritford (the same woman as above) in a case of defamation, because he accused her of “the said crime.” Since this entry comes directly after the adultery entry, it seems likely that “the said crime” was adultery, and that the office case against Alice was brought because of something John said. As in *West*, Foxton wrote *imponere crimen* here, just as the phrase was used in the canon of the council of Oxford of 1222. The parties appeared in person. The libel was delivered orally by Alice “according to the formula of the Constitution of the Council of Oxford against defamers.” Such command of legal language seems strange because Alice did not have a proctor, and we would not expect proctors or advocates to have been in Doddington chapel on a Sunday. Since she used the formula, she was almost certainly coached by someone.⁷⁸ At any rate, the bishop may have heard the words “*imponere crimen*,” may have heard mention of the Oxford statute, and certainly heard Alice's strangely formulaic oral libel. Thus, the bishop, like his officials in *West* and *Bakere*, would have been thinking about the English canon law on defamation during this trial.

John denied the allegation, but Alice produced two witnesses (perhaps two of the dozen women she produced for the purgation, but they are not named in either case), who were admitted and examined. Their testimony was published, and the court concluded that John had said words that “sounded infamous to Alice.” Bishop Arundel

77. Stentz. 330. *Gritford*.

78. Stentz. 330. *Gritford*.

decreed that John “*publice petet ab ea veniam dicendo coram toto populo quod talia verba non dixit quia fuerunt vera sed calore iracundie et provocatus*” (“publicly seek pardon from her, saying in the presence of all the people that he did not say such things because they were true, but because he was provoked and in the heat of anger”)⁷⁹ on the following Sunday. This case is very similar to *West*, above, because the defendant’s apology mentions the “heat of anger” and the defendant is not actually assigned penance.

The question that remains is why Alice’s case was selected to be heard by the bishop. It is the only case of adultery with a priest recorded by Foxton,⁸⁰ and the bishop may have been interested for that reason. It is entirely reasonable that the priest in question was Alice’s parish priest, and since Doddington is the bishop’s manor, he may have been particularly concerned with that priest’s reputation. Of course, it is also possible that the bishop was simply doing his job, and that he interfered because he saw an opportunity to solve a problem quickly which would take much more time and money to solve in the official’s court. Either way, the case shows that Bishop Arundel supported the court’s enforcement of canon law. The case that he heard, *Gritford*, is very similar to one of the consistory court cases described above, *West*. The similarity in the handling of these two cases suggests that the court was acting as the bishop would have if he had been deciding the cases himself.

This chapter, then, has shown first the English church’s motivations for writing the statute from the Council of Oxford against defamation, *Auctoritate dei patris*. The church saw that defamed men and women did not have a remedy available to them under

79. Stentz. 330. *Gritford*.

80. Stentz.

the English common law. The existing canon law considered defamation reprehensible, but it did not propose a strong enough punishment, so the Council of Oxford adopted a canon excommunicating defamers. From the perspective of the men at the highest level of the church hierarchy in England, the archbishop of Canterbury and his bishops, the threat of this increased sanction served purposes both secular and divine: it maintained public order by giving people an opportunity for judicial redress rather than leaving justice in the hands of the masses and it showed concern for the souls of the people in their care, encouraging defamers to do penance in order to become communicants once more.

A century and a half passed before the Ely Act Book began to record the actions of its consistory court, but the Act Book shows that the court was enforcing the law, maintaining the benefits to the upper class originally intended by the English bishops at the Council of Oxford. Additionally, it shows that the court's actions benefited and satisfied the bishop at the time, Thomas Arundel, inasmuch as the decisions he made when presiding in the court accorded with those of the court in general.

Chapter 2: The court working for the people

Most of the Ely Act Book does not deal with people as powerful as Bishop Arundel. Instead, the cases tell the stories of ordinary people who worked in the court and brought disputes there. There was Robert Foxton, who lived with his wife next door to a convent in Cambridge and worked as the court's registrar. There was Hugh de Candlesby, Foxton's counterpart in the archdeacon's court, a decidedly unsavory character whom Arundel's officials punished for various misdemeanors⁸¹ and an improperly solemnized marriage.⁸² There was John Newton, an official of Ely for nine years who regularly moved his court to the parishes to better examine witnesses.⁸³ There was Richard Scrope, another official; he became archbishop of York, led a rebellion against King Henry IV, and was beheaded in 1405.⁸⁴

In addition to these court personnel, the Act Book tells the stories of people like the Bakeres, who were allegedly defamed as a thief and a prostitute respectively by a fellow Cantabrigian.⁸⁵ It also shows us people like William Adekyn and his priest Robert. William claimed Robert had abducted his wife and committed adultery with her; Robert said this accusation constituted defamation.⁸⁶ It contains the story of Alice Gritford, the wife from Doddington who was defamed for adultery, and Joan Hichecok and her son John, wrongfully accused of defamation by Margaret Cumpyn.⁸⁷

81. Aston, 125.

82. Donahue, 274.

83. Stentz. For instance, see 369. *Barber*.

84. Brundage, 544.

85. Stentz, 377. *Baker (2)*.

86. Stentz, 178. *Bassingbourn (1)*.

87. Stentz, 330. *Gritford* and 5. *Cumpyn*.

At first glance, the two groups do not have much in common. Scrope and Newton held doctorates from Cambridge. Few of the litigants knew Latin, let alone canon law. Foxton and the Bakers lived in Cambridge, but Margaret, Joan, John, and Alice all came from small villages further afield. Foxton and Candlesby would have been well-paid by the court, but some of the litigants could not even afford proctors. Nevertheless, all of these people came together in the Ely Consistory Court.

The court was held in various locations during the time of the Act Book. For the most part, it met in Cambridge churches: All Saints, St Michael's, and St. Mary's. It also met in Ely and occasionally in parishes around the diocese.⁸⁸ The power that the court brought with it to each of these locations was what drew these people. For the plaintiffs, that power would clear their names. For the defendants, that power would preserve their innocence. For the court personnel, that power would pay their salaries and advance their careers. In other words, we see from the Act Book that the court served the self-interest of all of the groups who used it.

In this chapter, we will consider the experiences of each of these groups. First, we will consider the court's role for the people who worked there. For those bureaucrats, the court offered pragmatic advantages in the form of salaries and prestige. Then, we will see what it did for the litigants, both the plaintiffs and the defendants. To the plaintiffs, it offered judicial redress for their problems. At the same time, the court protected the defendants. The chapter will close by considering how the court balanced the conflicting interests of these three groups.

88. Stentz.

The court and its personnel

The personnel of the court were not as affluent as Bishop Arundel, but they were better off than most of the litigants who appeared before them. They were educated; some even held doctorates from Cambridge.⁸⁹ For these people in the middle of the system, the court provided a chance to use that education in exchange for a salary. The Act Book records a court that valued order and learning – in short, a court in need of bureaucrats like Robert Foxton and the officials, advocates, and proctors of Ely. The court created five types of jobs: official, advocate, proctor, registrar, and notary. Not only did the court provide those jobs, it gave its personnel opportunities for career advancement.

The Act Book records cases from the terms of three officials: Nicholas Roos, 1374-1375; Richard Scrope, 1375-1378; and John Newton, 1379-1382⁹⁰ The official, as mentioned above, was the chief officer of the court and also the chief judicial deputy of the bishop. We will discuss Newton's career later in this section, but for now we should consider the officials as a group. By the time each of these men received his commission as official, he had earned a doctorate from Cambridge. Additionally, Newton served as a commissary, a deputy to the official, before getting the job himself,⁹¹ and it seems likely that Roos and Scrope had similar early careers.

The officials and the commissaries were selected from a group of legal experts called advocates. These lawyers often held university degrees⁹² and were certainly

89. Brundage, 544, 546. At least Scrope, Bowet (an advocate), and Newton held doctorates from Cambridge. Roos also had a doctorate, but it is not certain that he got it at Cambridge.

90. Aston, 54-55. Newton's term extended beyond 1382, but the Act Book did not.

91. Stentz, 96. *Draper/Durrant*.

92. Brundage, 543-544.

familiar with canon law and with the Latin language. The Act Book often mentions that the official makes a sentencing decision “*de consilio iuris peritorum*” (“with the counsel of legal experts”),⁹³ and that phrase likely refers to the advocates. Otherwise, they hardly appear in the Act Book. The advocates would also have advised defendants and plaintiffs, composed legal language for the court, and, according to James Brundage’s article which is specific to the Ely Consistory Court during this period, they would have made arguments on behalf of litigants. There were at least nine advocates at Ely during the time covered by the Act Book.⁹⁴

The proctors, mentioned in the introduction, were also trained in the law, and they show up much more often in the Act Book. It records the name of a proctor every time he⁹⁵ represents someone, and it includes 13 cases in which a proctor sues his client for his salary. Proctors could represent their clients in court, and they could also negotiate on the client’s behalf. At the same time, the proctor acted as a guide for those unfamiliar with the legal process and made sure that the correct formulae were used and the right deadlines were met.⁹⁶ In *Gritford*, the Act Book records that the plaintiff used the correct formula to deliver the libel, but it also records that she was not represented by a proctor, so she actually delivered the libel herself. It is cases like this that suggest proctors and advocates offered legal advice separate from representation.

Proctors were sometimes related to the people they represented. For instance, in *Grinder*, the plaintiff’s proctor was her husband.⁹⁷ There were also professional proctors

93. Stentz, 33. *Shepherd/Wrighte*

94. Brundage, 544.

95. The proctors and the advocates were all male.

96. Brundage, 548.

97. Stentz, 68. *Grinder*.

who represented people for a fee.⁹⁸ These provided regular income to about nine men throughout the course of the Act Book.⁹⁹ These professional proctors are also often university-educated, holding at least a master's degree.

Robert Foxton, the man who wrote the Act Book, was another employee of the court. He was the registrar, so part of his job was to keep the court records required by the Fourth Lateran Council. He would also have helped to create written documents for the court, like the written libel that a defendant may request in trial. The Act Book mentions five other men as notaries, the men who wrote and sometimes drafted documents for the court. One of them also served as an advocate, another as a proctor. The third held Foxton's position in the archdeacon's court. Two more are mentioned only occasionally in the Act Book, almost suggesting that more notaries could have gone unnoticed by the written record.¹⁰⁰

The consistory court had a big task: hearing cases from all over the diocese. As such, it required the large staff just described. This work certainly benefited the men who held those jobs. In some cases, this sort of bureaucracy becomes self-serving and self-perpetuating, but here we have no such indication. We have little record of the fees charged by the court and by its proctors, but the litigants who appear in the court seem to be ordinary men and women, and their recourse to the court suggests that the fees charged were not too high.

Not only did the court provide the jobs described above, but those jobs seem to have been satisfying, and in some cases they even led to better ones. We can see this in

98. Brundage, 548.

99. Brundage, 549.

100. Brundage, 554-555.

the careers of Robert Foxton and John Newton. Robert Foxton, the registrar of the court, the man who wrote the Act Book, was described above in the first chapter. We know from the Act Book that he was a meticulous record-keeper, and that he occasionally served as a proctor in the consistory court.¹⁰¹ We also know that he was sufficiently well-off to get married¹⁰² and to employ a servant.¹⁰³ We know from other sources that he owned the land his was on and that he expanded that land by renting land adjacent to it in 1383.¹⁰⁴ We do not know when he retired from his position as registrar, but we know that he or his wife continued to lease the expansion land until 1443, and he was variously employed and paid by religious foundations through 1406. This evidence shows a career that provided Foxton with material needs and some luxuries. The lease suggests that both Foxton and his wife existed from the time of the Act Book to the ends of their lives without experiencing poverty.

John Newton became the official of Ely in 1379. He started as an advocate at the consistory court in 1375, shortly after receiving a bachelor of laws at Cambridge. By 1378, he was occasionally serving as a commissary, substituting for the official, and he received his doctor of laws that year. The following year, Arundel made him his official, a post he served in until 1390, when he followed Arundel to York and worked as the vicar-general of the archdiocese, the second-in-command after the archbishop. At the same time, he held the position of Master at Peterhouse, a college in Cambridge.¹⁰⁵ His career shows that the court provided opportunities for its personnel to advance their

101. Stentz, 116. *Thorney/Wittlesey (1)*.

102. Aston, 26.

103. Stentz, 238. *Foxton/Snow*.

104. Aston, 26.

105. Brundage, 545-546.

careers. In Newton's case, he seems to have studied at Cambridge while working in the court, an advantage that could have existed only at one other consistory court, that of Oxford. He could study and work in the same town, and he could make the connections necessary to advance his career.

The Ely Act Book shows that the consistory court did not benefit only the interests of the Church. It created a market for the skills of a few dozen learned men – proctors, advocates, officials, notaries, and of course, Robert Foxton, the registrar. These jobs offered good salaries as well as opportunities for advancement within the church hierarchy. The court also brought these men a measure of social prestige. The consistory court was the center for legal action in the diocese, and when ordinary people came to court, it was these men with whom they interacted.

The court working for the litigants

It makes sense that the court benefited its personnel. They ran the system. Interestingly, the Act Book also suggests that the court worked for the people who were not in control of the system: the litigants. These litigants were, on average, far less learned and less affluent than the staff of the court. As we explore their stories, we will learn more about their social ranks, but for now we should imagine a group made up of masters and servants, landlords and tenants, priests and parishioners.¹⁰⁶ They came from small villages far from the court, but also from the towns at the center of the diocese:

106. Stentz. Examples of cases involving such parties are 259. *Finchingfeld* (2), 163. *Bower*, 178. *Bassingbourn* (1). Barbara Hanawalt, *The Ties That Bound: Peasant Families in Medieval England* (Oxford: Oxford University Press, 1986) is a good study of the less-powerful members of society at this time.

Cambridge and Ely.¹⁰⁷ They were neither the very poor nor the very rich, because the poorest people could not have afforded to miss work and travel to the court, and the very rich would probably have been able to circumvent this level of the canon law system, bringing cases to the bishop directly or even to the archbishop of Canterbury.

The litigants were not powerful people, but by examining the defamation cases in the Ely Act Book we can see that the consistory court did afford them some privilege. For the plaintiffs and the promoters, it offered a judicial method for dispute resolution. It also offered two protections for defendants: a strong standard of proof and payment of court costs. For litigants on either side of the cases, it offered the opportunity for learned legal representation.

We will first consider how the court's system of proctors helped both plaintiffs and defendants. Then we will consider a case that shows what it provided for the plaintiffs – dispute resolution, and finally we will consider two cases that illustrate the protections for the defendants, *Cumpyn* and *Shepherd/Wrighte*. Examining those cases will also help us to understand why those measures mattered to plaintiffs and defendants and how they contributed to equitable fulfillment of each side's goals.

The court included a group of learned men who would represent litigants: proctors. While litigants had to pay for this representation, the system did give them an opportunity for it; the system was set up to allow people who were not legal experts to succeed. As in *Cumpyn* and *Shepherd/Wrighte*, which we will discuss below, 51 of the 81 defamation cases involved a proctor for at least one of the parties. Proctors allowed people to avoid the risks and expenses of a journey to Cambridge. This service would

107. Stentz, 32. *Smyth* (1) and 377. *Baker* (2) illustrate this dichotomy.

have been especially useful in cases that went on at length. However, the real benefit of a proctor was not simply convenience. The existence of the system of proctors allowed people who did not know how the system worked to hire people who did. Instead of paying the full price of an education, litigants could pay to have the advantage of education for a few days in court. If representation was too expensive, litigants could buy advice for a lower price. It seems, both from the Brundage article and from Alice Gritford's uncanny knowledge of legal formulae (see Chapter 1) that the proctors and the advocates also gave legal advice to people who did not hire representation, presumably for a smaller fee.

The court working for the plaintiffs

Fifty-two of the eighty-one defamation cases in the Act Book end in three sessions or fewer. These cases can end for three main reasons. They can end when the plaintiff stops pursuing the case, when the defendant fails to show up, or when the parties reach a settlement.

In cases where the plaintiff stops pursuing the case, the record shows that the defendant is dismissed from the plaintiff's suit, sometimes "protesting his/her expenses." Six of the cases end this way.¹⁰⁸ Cases can also end when the defendant does not show up. Seven of the defamation cases end this way.¹⁰⁹ Cases like this are generally even shorter than cases where the plaintiff stops pursuing the case because without the defendant, these cases cannot proceed past the citation stage.

108. Stentz, 105. Bayser, 132. Tiler, 144. Grigg, 154. Hubert, 302. Manciple, and 315. Reeve.

109. Stentz, 32. Smyth (1), 104. Dix, 117. Wolverton, 156. Johns, 163. Bower, 204. Hertecoumbe, 275. Glover. In Johns, neither party showed up.

Most of the 39 short cases remaining, as well as several longer ones, end with settlements. There is “peace” between the parties at the end of these cases. It is possible that money changes hands, but this is never recorded. It is equally possible that at the next session of the court, a month or more after the supposed defamation, both parties felt calmer about it, and they no longer cared about seeking a legal remedy.

We will consider *Stokeslee* as an example of this type of case. On 20 March 1376, Margaret, the wife of Hugh Cok of Westley Waterless, Cambridgeshire, was cited at the instance of Richard Stokeslee and John Milner, also of Westley Waterless. Margaret appeared through her proctor, William Killerwyk, while Richard and John appeared in person. Richard and John delivered an oral libel, and the court set a date in the next session for the production of the written libel.¹¹⁰

The case next appears on 3 April 1376, in the next session of the consistory. Richard and John appeared by their proctor, John Wiltesshire, and Matilda appeared by her proctor. The written libel was produced, and a date was set in the next session for Matilda to respond to the written libel. At that next session, 24 April 1376, Foxton simply entered that “*pax est*” in this case, which literally means “there is peace.” There are no further entries. The record does not give any clue as to why the parties made peace.¹¹¹

Since so many of the defamation cases in the Act Book are like *Stokeslee*, it is important to consider what the court did for people like Richard Stokeslee and John Milner. For the plaintiffs and promoters who brought cases in the consistory court, the

110. Stentz, 87. *Stokesley*.

111. Stentz, 87. *Stokesley*.

main goal was probably a sentence against the defendant. However, the Act Book shows that a guilty finding was highly unusual. Not only did 42 of the 81 defamation cases end in “peace,” only one of the cases, *Gritford*, the case before the bishop, ended with a decisive finding for the plaintiff. If the plaintiffs knew the success rate was so low (they probably did, because as the dozen compurgators in *Gritford* suggest, medieval society was incredibly tight-knit), then they cannot have reasonably expected a sentence in their favor. However, the plaintiffs continued to bring cases to the court, so it must have been fulfilling their needs in some other way.

For instance, in *West*, discussed in the first chapter, the plaintiffs got an apology even though there was no sentence. Their names were cleared in front of their neighbors and in front of God in their parish church on a Sunday. John Cristmesse, the defendant, had to stand up and say he was wrong. Even in the cases where no apologies are recorded, like the 41 cases that end in *pax* (peace), there was probably a benefit to the plaintiff that is not recorded that caused him/her to drop the suit. The unstated benefit may have been a payment of money, an informal (and thus unrecorded) apology, or just a change of heart about the dispute. The system sufficiently empowered the plaintiffs that they would not need to drop cases unless they wanted to, so the combination of the few cases where the defendant formally apologized, the six cases where the plaintiff dropped the case, and the 41 settlements shows that the court served the plaintiffs well.¹¹²

112. The remaining 30 or so cases are a combination of cases where the defendant or both parties stopped showing up (but peace was not declared), where the sentence showed a failure to prove (as in *Cumpyn* and *Shepherd/Wrighte*, below), or where the case continued past the end of the Act Book.

The court working for the defendants

In addition to serving the plaintiffs, the court offered two protections for the defendants. The court demanded a strong standard of proof, and when the plaintiffs did not make their cases, the defendant was not punished. The court also included safeguards to prevent plaintiffs from using the system as a financial weapon. If the plaintiffs failed to make their cases, they would have to pay the defendant's court costs. The imposition of costs would have discouraged people from using the court to inflict social or economic injury.

The defamation case Margaret Cumpyn of Reach, Cambridgeshire brought against Joan Hichecok of neighboring Swaffham Prior and her son John was a long one. It lasted from March 1374 to May 1375, and it was probably an appeal from the archdeacon's court. Throughout the case, both sides appear by proctor. At the first session the Act Book records (and there were probably others before the Act Book started), Margaret's proctor asked to introduce witnesses, but the witnesses did not actually appear until late June.¹¹³

Beginning on 28 July, Margaret's proctor, Richard Pyttes, stopped showing up. He missed three more sessions before finally appearing on 26 October. The case continued without incident until the judgment on 24 May 1375. Both parties appeared again by proctor, and Richard Pyttes, Margaret's proctor, told the court that Margaret had been unwilling to consult with him since the production of the witnesses, which took place almost a year before in June 1374. The sentence was given: since Margaret had totally failed to prove her allegations, she had to pay Joan's and John's court costs, to be

113. Stentz, 5. *Cumpyn*.

assessed by the official or his commissary. It is likely that she did pay these costs, because the Act Book does not record Joan and John suing her for them, and they could have.¹¹⁴ We will consider what the value of such a sentence was after discussing the *Shepherd/Wrighte* case.

The *Shepherd/Wrighte* case is also a long one, with its first entry in April 1375 and its last in July 1376. John Wrighte was cited at the instance of Thomas Shepherd on 6 April 1375. Both parties were from Croxton, a town on the edge of the diocese 13 miles west of Cambridge.¹¹⁵ Thomas appeared by proctor, but John appeared in person. The defamation case continued as usual, but on 4 May, their roles reversed. Thomas was cited at the instance of John in a case of appeal from the court of the archdeacon, who, at Thomas's instigation, cited John and did other "unjust things" which are not specified. This suit disappeared rather quickly, and the original defamation action continued. Thomas's side produced witnesses on 4 October. The case was concluded in January, but the judgment was not given until April. In April, Foxton recorded that the official had investigated the whole case and received the counsel "*iuris peritorum*" (of experts in the law). The official found that the plaintiff, Thomas, failed to prove what he set out to prove. John was absolved, and Thomas had to pay his costs. In July, Thomas still had not paid, so he was cited at John's instance and made to pay thirteen shillings, threepence or face major excommunication.¹¹⁶

In each of these cases, the plaintiff introduces witnesses but later fails to make his/her case, and the defendant goes free. Simply the fact that the burden of proof lies

114. Stentz, 5. *Cumpyn*.

115. Cambridgeshire Federations of Women's Institutes, 58.

116. Stentz, 33. *Shepherd/Wrighte*.

with the plaintiff is a positive aspect of the court for the defendant. What must have been even more encouraging was the seemingly high standard of proof. It is difficult to tell what the Ely officials were looking for, because none of the defamation cases in the Act Book include the witnesses' testimony. However, the standard of proof in canon law is that two witnesses must testify to the same facts.¹¹⁷ We can assume that the plaintiff would only have produced witnesses if he/she thought they would support his/her story. In the first case, Margaret Cumpyn produced three witnesses, and in the latter, Thomas Shepherd produced two. If the witnesses in each case had agreed with each other, they would have been enough to convict the defendant according to the standard for canon law. However, the defendants were not convicted, so the judge must have been looking for more proof or more agreement than they provided.

At this point in each of the cases, the plaintiff failed to prove the charge and the judge ordered the plaintiff to pay the defendant's legal costs. In *Shepherd/Wrighte*, the Act Book records the assessed costs and threatens the plaintiff with major excommunication when he fails to pay. This threat shows that timely payment of costs was taken very seriously, and it suggests that the costs awarded in *Cumpyn* were also paid, because there is no follow-up suit in that case. The payment of costs is an important one from the perspective of the defendants. Awarding court costs would have discouraged people from bringing false claims and would have prevented individuals from using the court lightly. Without the provision for payment of costs, people could have used the court to further disputes rather than to solve them, bringing people to court simply to cause them expense.

117. Donahue, 40.

In conclusion, on top of offering plaintiffs a judicial avenue for dispute resolution, the consistory court helped defendants in at least two ways: requiring a high standard of proof and imposing costs on plaintiffs who failed to prove their cases. Moreover, the system of proctors offered the unlearned a chance for representation. These features did not make the court perfect, but they made it more equitable, offering redress for the defamed, safeguarding the system from exploitation at the hands of over-eager plaintiffs, protecting defendants from social and financial loss, and offering all litigants a chance at learned representation. For the men who worked in it, the court provided jobs with good salaries and opportunities for career advancement. It managed to serve each of the constituencies of people that came to it for help.

At first, the goals of these constituencies seem to conflict. High proctor's fees would benefit the professionals and disadvantage the litigants. An excessive standard of proof would benefit the defendant at the expense of the plaintiff. A court where plaintiffs were assured victory would cause social and financial ruin for the innocent. However, the Act Book suggests that while the interests of these constituencies competed, the system did not allow them to compete to one another's detriment. For proctors and litigants, the consistory court offered a marketplace. That marketplace seems to have led to reasonable proctor's fees, fees that were affordable for many of the litigants, enriching the proctors with great quantity rather than great price. In the courtroom, too, the system balanced conflicting interests. It deterred frivolous suits by awarding costs to the falsely accused, empowered plaintiffs with the ability to bring complaints, and protected defendants with a high standard of proof.

Conclusion:

The Ely Act Book, our window into the world of the Ely Consistory Court, ends abruptly on 28 February 1382.¹¹⁸ For Foxton, the record probably continued in another volume, but for the twenty-first-century observer, the record ends there. In all likelihood, the men and women of Cambridgeshire brought defamation libels that spring as they had for the past eight years, and as they had before that. The proctors sued for their salaries, John Newton gave sentences, and Robert Foxton wrote it all down. Defendants were made to apologize just as abjectly as John Cristmesse was, and plaintiffs like Alice Gritford were redeemed in front of their neighbors. But we cannot know for sure what happened that spring, or ten years before, or ten years after. We cannot know for sure what happened in Oxfordshire, or Gloucestershire, or Norfolk. The only things that we can know are those which Foxton recorded in the surviving Ely Act Book.

In 1377, the fifty-year reign of King Edward III came to an end, and his ten-year-old grandson, Richard II, ascended the throne.¹¹⁹ England was at war with France, and although there was not open fighting at this time, England's French possessions were at an all-time low; England controlled only Calais, Cherbourg, Bordeaux, and some Breton port towns.¹²⁰ In 1381, English peasants rebelled, marching to London to petition their king about high taxes and the war with France.¹²¹

In 1349, over a quarter-century earlier, the Black Death had swept through England, reducing the population by at least 25 percent. The disease returned in smaller

118. Stentz, 167.

119. Hollister, 340.

120. Hollister, 327.

121. Hollister, 348-349.

epidemics during the 1360s and 1370s, and by 1400, England's population was about 60 percent of what it had been before the plague struck. The Black Death changed the entire demographic landscape of England, creating a high demand for labor and empowering peasants, contributing to the revolt of 1381.¹²²

The Ely Act Book suggests that the rule of law (or at least canon law) held in the midst of death and revolt. Bishop Arundel, born in 1353,¹²³ was probably one of the youngest figures mentioned in the Act Book. He would not have remembered the first appearance of the Black Death, but it would have shaped his childhood, and he would have witnessed the later outbreaks. For most of people mentioned in the Act Book, the Black Death would have been a personal memory. Some of the men might also have remembered going to war in France. Some of the professionals and litigants, including the archdeacon's registrar, Hugh Candlesby,¹²⁴ would take part in the violent uprisings in Cambridge and Ely during the Peasant's Revolt.

However, the Act Book, apart from bearing witness to Candlesby's disappearance, contains nothing of these events. The dozens of defamation cases recorded in the Act Book show a strong court, a court that was able to deal with the quotidian complaints of an entire diocese while the world around it experienced turmoil. Strong systems are often co-opted for the benefit of the powerful. However, in the case of Ely, the court's strength served more than just the people in charge.

122. Hollister, 336. For the debate over the social and legal effects of the plague, including the Statute of Laborers, which forced peasants to stay on their native land even when other estates offered higher wages, see R. C. Palmer, *English Law in the Age of the Black Death 1348-1381* (Chapel Hill: University of North Carolina Press, 1993), and J. L. Bolton, "'The world upside down': plague as an agent of economic and social change," in *The Black Death in England*, Ed. W. Mark Ormrod and P.G. Lindley (Stamford: Paul Watkins, 1998).

123. Aston, 4.

124. Aston, 142.

The Act Book testifies to the importance of individuals in this story. It accords significance to defendants and plaintiffs, proctors and officials, witnesses and bishops, by naming them. For most of these people, their mention in the Act Book is the only record that they existed. It frustrates the modern reader not to know more about the lives of the common people who appear in the court's records.

The Act Book – sparse though it is – tells a story that was important to each of these individuals, the story of the defamation cases brought in the Ely Consistory Court between 1374 and 1382. It tells of the bishops' law, still enforced 150 years after they wrote it; of the professionals who worked in the court, paid adequately and given opportunities for advancement; and of the litigants: the plaintiffs that the court empowered and the defendants that it protected.

Appendix: Images

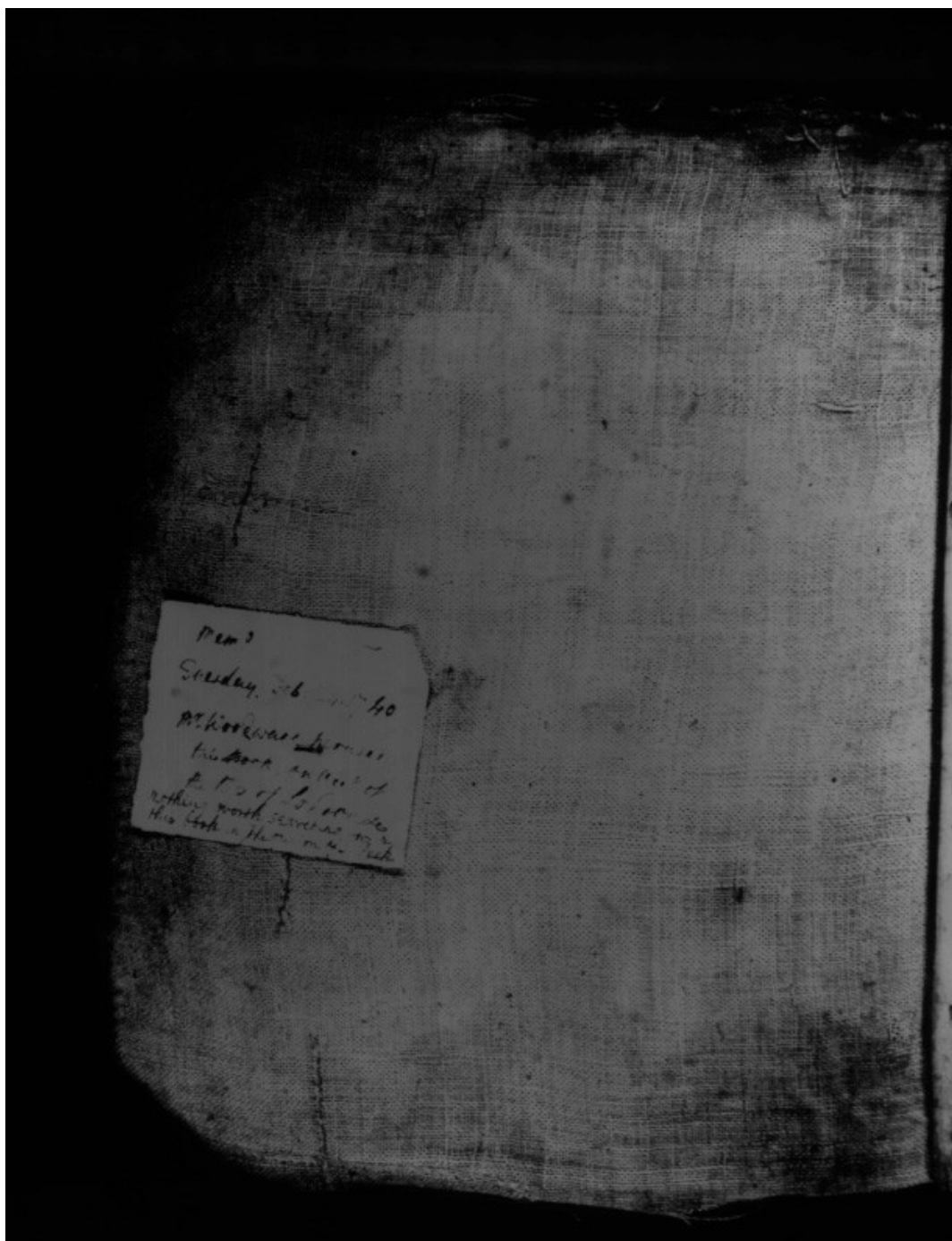


Image 1. Inside cover of Ely Act Book (EDR D/2/1), with linen lining and two-part note. Note reads, "Memorandum Tuesday Feb. 24 1740 Mr. Woodward perused this book on account of the Bishop of London etc. / Nothing worth search for in this book is the opinion of S. Peck." Transcription from Dorothy Owen, *Ely Records*, 20. All images in this appendix come from *The Church court records of Ely*. Microfilm, (Brighton: Harvester Press Microfilm Publications), 1985-1986.

[illegible]

Image 2. First page of D/2/2, a later court register bought together with the Ely Act Book. Includes note from Samuel Pegge reading “These old Papers I call ‘No. 1 of the Bp's Regrs’ Sept. 1765, intending to examine and remark upon the many books I bought by weight of a Grocer who had them for waste paper.” Transcription from A. Gibbons, *Ely Episcopal Records*, 80.

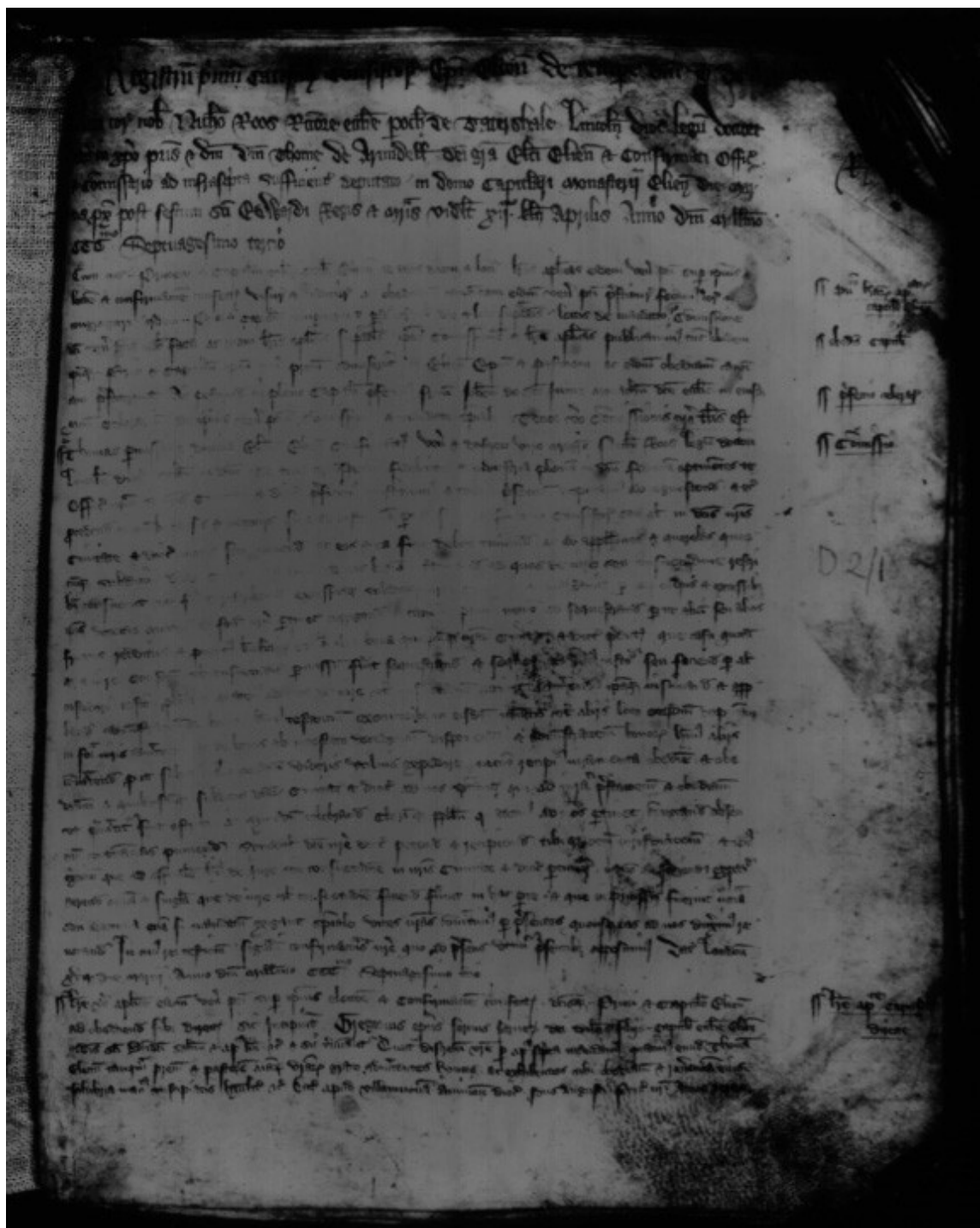


Image 3. Ely Act Book (EDR D/2/1), 1r. Phrase in margin at top of page reads “Registrum primom causarum consistorii episcopi Eliensis de tempore domini T. de Arundel.” Transcription from Dorothy Owen, *Ely Records*, 20. Foxton's signature, although it is difficult to make out, is in the bottom right corner.

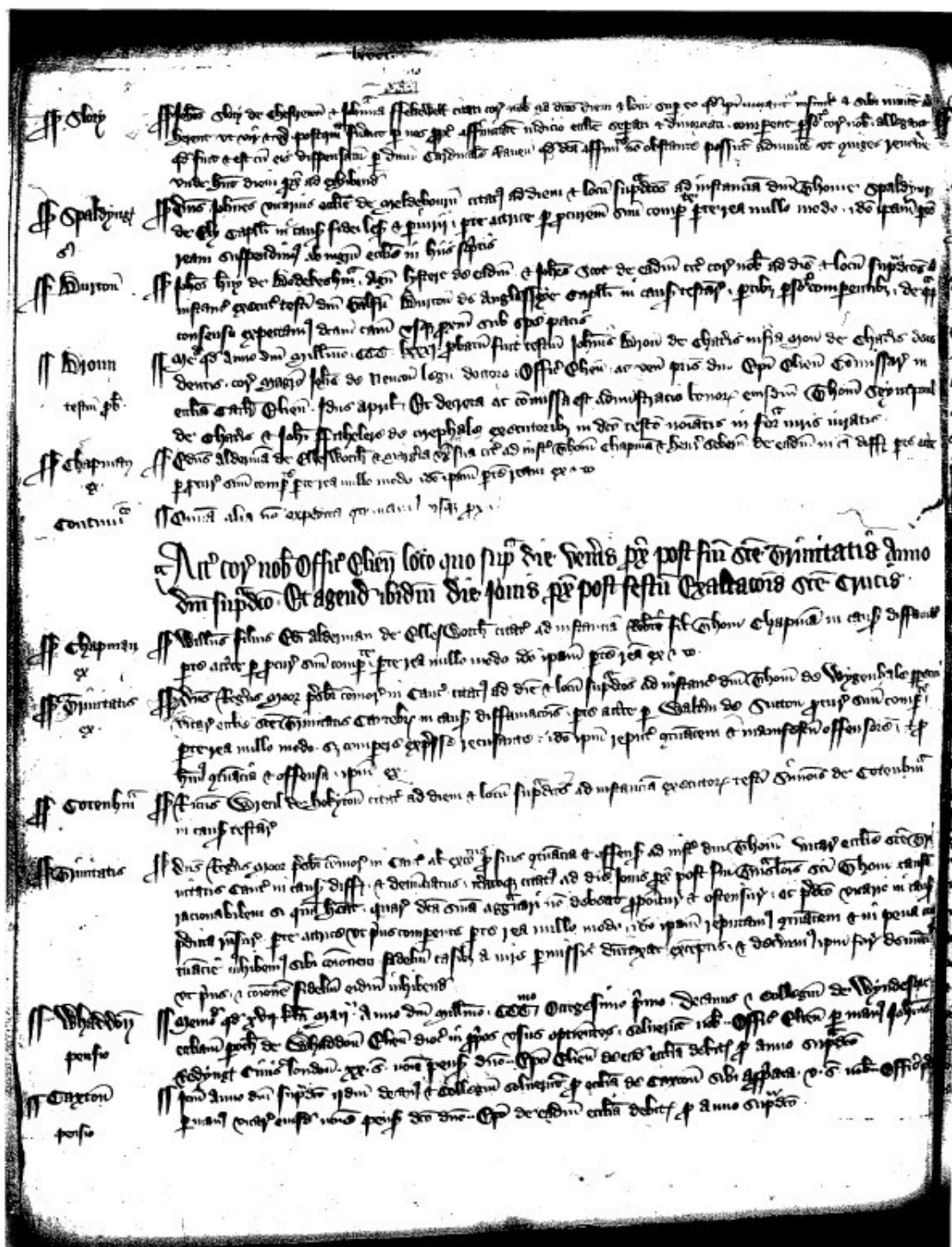


Image 4. Ely Act Book (EDR D/2/1), 151v. This page from the middle of the Act Book shows the typical layout. The larger writing in the middle of the page marks the beginning of a session. The words in the margin are the plaintiffs' names, sometimes followed by another word denoting the type of case.

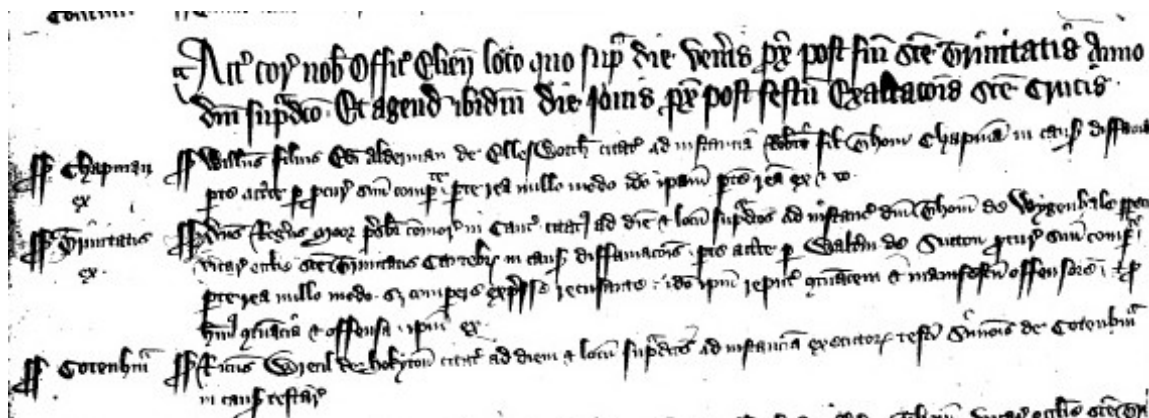


Image 5. Detail of Ely Act Book (EDR D/2/1), 151v. This image is transcribed below to give the reader an idea for the amount of abbreviation Foxton used. This is my own transcription. An English translation follows on the next page.

Acta coram nobis Officiali Eliensi [Ely] loco quo supra die Veneris proximo post festum sancte Trinitatis Anno domini supra dicto [21 June 1381], Et agenda ibidem die Jovis proximo post festum Exaltationis sancte Crucis [19 September 1381]

¶ Chapman ex]¹²⁵ ¶ Willelmus filius Edwardi¹²⁶ Alderman de Ellesworth [Elsworth] citatus ad instanciam Roberte fil[-ia/-ius] Thome Chapman in causa diffamacionis parte actrice per procuratorem suum comparente parte rea nullo modo ideo ipsam partem ream ex[communicamus] et cetera

¶ Trinitatis ex] ¶ Dominus Rogerus Moor Presbyter commorans in Cantabrigia [Cambridge] citatus ad diem et locum supra dictos ad instanciam Domine Thome de Wygenhalo [Wiggenhall] perpetu-¹²⁷ citatus ecclesie sancte Trinitatis Cantebrigie [Cambridge] in causa diffamacionis, parte actrice per Walterum de Sutton [Sutton] procuratorem suum comparente parte rea nullo modo sed comparere expresse recusante; ideo ipsum reputatum contumacem et manifestum offensorum, et pro huius contumacia et offensa ipsum ex[communicamus]

¶ Cotenham] ¶ Richardus Writel de Hokyton [Oakington] citatus ad diem et locum supra dictos ad instanciam executorum testi Simonis de Cotenham [Cottenham] in causa testamentaria

125. In the manuscript, everything before the bracket is in the margin. I will reproduce this with the bracket, as seen here. In the manuscript, “ex” is written below Chapman. It may stand for *excommunicamus*, showing that Chapman is excommunicated in this entry.

126. The manuscript reads Edi. While Edward was the more common name, this could just as well be Edmundi.

127. This word goes into the gutter of the book and the end is illegible.

English translation:

The things done in the presence of the Official of Ely in the aforesaid place on the Friday next after the feast of the Holy Trinity in the aforesaid year of Our Lord [21 June 1381], and the things to be done in the same place on the Thursday next after the feast of the Exaltation of the Holy Cross [19 September 1381].

¶ Chapman ex] ¶ William son of Edward Alderman of Elsworth was cited at the instance of Robert(a), son/daughter of Thomas Chapman in a case of defamation. The plaintiff appearing through his proctor and the defendant appearing in no way, therefore we excommunicate that defendant, etc.

¶ Trinity ex] ¶ Lord Roger Moor, a priest staying in Cambridge, cited for the aforesaid day and place at the instance of Lord Thomas, perpetual vicar of Wiggenhall, was cited in the Church of Holy Trinity, Cambridge, in a defamation case. The plaintiff appearing through his proctor Walter de Sutton and the defendant appearing in no way but rather expressly refusing to appear because of his reputed contumacy and great offense, for his contumacy and offenses we excommunicate him.

¶ Cotenham] ¶ Richard Wretil of Oakington was cited for the aforesaid day and place at the instance of the executors of the will of Simon of Cottenham in a testamentary case.



Image 6. Ely Act Book (EDR D/2/1) 162v. This is the final page of the Ely Act Book. In the bottom margin, the writing reads “Quere proximum consistorium...quod incipit registru[m] secundum consistorii episcopi.” Transcription from Dorothy Owen, *Ely Records*, 20.

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